

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

NESTLÉ PURINA PETCARE COMPANY,)	
)	
Plaintiff,)	
)	
v.)	Case No. 4:14-cv-00859-RWS
)	
THE BLUE BUFFALO COMPANY LTD.,)	JURY TRIAL DEMANDED
)	
Defendant.)	

**PURINA’S SUPPLEMENTAL STATEMENT IN ACCORDANCE WITH THE COURT’S
SEPTEMBER 9, 2014 ORDER**

Plaintiff Nestlé Purina PetCare Company (“Purina”), by and through its undersigned counsel, and pursuant to this Court’s Order allowing the parties to supplement the record regarding the confidentiality designation of certain testing materials by September 18, 2014 (Dkt. No. 62), files this Supplemental Statement:

1. On August 20, 2014, Purina filed a “Motion for Leave to File Documents Under Seal” to file the preliminary expert analysis of Dr. James Makowski under seal in support of its motion to quash a deposition subpoena that Blue Buffalo served on Dr. Makowski (“Motion to Seal”). (Dkt. 41). The Makowski document was previously produced to Blue Buffalo and designated as “Confidential” under the Protective Order (the “Makowski Preliminary Analysis”). The Court granted the Motion to Seal on August 28, 2014. (Dkt. No. 52).

2. On August 27, 2014, Blue Buffalo filed an opposition to Purina’s Motion to Seal and a cross-motion requesting that the Makowski Preliminary Analysis and certain related documents be re-designated as non-confidential under the Protective Order (Dkt. 46), and thereafter Purina filed its reply (Dkt. 54). The Court heard oral argument on the matter on September 8, 2014, and thereafter issued an Order on September 9, 2014 providing “that the

parties may supplement the record and make proposals regarding why the Court should or should not remove the confidentiality designation of certain testing materials, including Dr. Makowski's report, no later than September 18, 2014." (Dkt. No. 62).

3. In light of the Court's comments during the hearing (Exhibit A at 42:9-45:9), Purina hereby agrees to re-designate the Makowski Preliminary Analysis and certain related documents as non-confidential.

4. Purina respectfully re-designates such documents without prejudice to its right to designate any future documents and information as "Confidential" under the Protective Order and, further, is hopeful that Blue Buffalo will approach the matter of confidentiality designations in this litigation in a manner consistent with its request and the Court's comments.

Dated: September 18, 2014

Respectfully submitted,

NESTLÉ PURINA PETCARE COMPANY

/s/ Carmine R. Zarlenga

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that he caused a true and correct copy of the foregoing Purina's Supplemental Statement in Accordance with the Court's September 9, 2014 Order to be served on all counsel of record who are deemed to have consented to electronic service on this day of September 18, 2014 via the Court's CM/ECF system.

/s/ Carmine R. Zarlenga